

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Darrell Denteze Horry,	)	Case No. 8:23-cv-02083-DCC
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Officer Cardenas, Officer Tew,	)	
	)	
Respondents.	)	
_____	)	

This matter is before the Court on Petitioner’s Petition for Writ of Mandamus. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings and a Report and Recommendation (“Report”). On June 13, 2023, the Magistrate Judge issued a Report recommending that the Petition be dismissed without prejudice and without requiring Respondents to file a Return. ECF No. 12. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences for failing to do so. Petitioner failed to file objections to the Report and the time to do so has lapsed.<sup>1</sup>

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<sup>1</sup> The Court notes that Petitioner has provided an updated address in his other action pending in this Court but has not done so here. *See Horry v. Cardenas*, 2:23-cv-02084-DCC. However, that address update was provided well after the Report was issued in this action and no mail has been returned as undeliverable.

### **APPLICABLE LAW AND ANALYSIS**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

As stated above, Petitioner has not objected to the Report. Accordingly, upon review for clear error, the Court agrees with the recommendation of the Magistrate Judge. The Petition is **DISMISSED** without prejudice and without requiring Respondents to file a Return.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

October 5, 2023  
Spartanburg, South Carolina